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## NEW MEXICO ENVIRONMENT DEPARTMENT

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BUTCH TONGATE  
Cabinet Secretary

J. C. BORREGO  
Deputy Secretary

### Certified Mail - Return Receipt Requested

December 1, 2017

Mr. Richard Troop  
Fortis Construction  
1705 SW Taylor St, Ste 200  
Portland, Oregon 97205

Re: **Fortis Construction/ Project Antelope; CGP; SIC 1541; NPDES Compliance Evaluation  
Inspection; NPDES #NMR1000CX; November 1, 2017**

Dear Mr. Troop:

Enclosed please find a copy of the report and check list for the referenced inspection that the New Mexico Environment Department (NMED) conducted at your facility on behalf of the U.S. Environmental Protection Agency (USEPA). This inspection report will be sent to the USEPA in Dallas for their review. These inspections are used by USEPA to determine compliance with the National Pollutant Discharge Elimination System (NPDES) permitting program in accordance with requirements of the federal Clean Water Act.

Introduction, detailed site observations, and findings noted during this inspection are discussed in the "NPDES Construction General Permit" section of the inspection report.

You are encouraged to review the inspection report, required to correct any problems noted during the inspection, and advised to modify your operational and/or administrative procedures, as appropriate. If you have comments on or concerns with the basis for the findings in the NMED inspection report, please contact us (see the address below) in writing within 30 days from the date of this letter. Further, you are encouraged to notify in writing both the USEPA and NMED regarding modifications and compliance schedules at the addresses below:

Robert Houston  
US Environmental Protection Agency, Suite 1200  
Enforcement Branch (6EN-WS)  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Sarah Holcomb, Program Manager  
New Mexico Environment Department  
Surface Water Quality Bureau  
Point Source Regulation Section  
P.O. Box 5469  
Santa Fe, New Mexico 87502

If you have any questions about this inspection report, please contact Jennifer Foote at (505)827-0596 or at Jennifer.Foote@state.nm.us.

Sincerely,

*/s/ Sarah Holcomb*

Sarah Holcomb  
Surface Water Quality Bureau

Cc: Carol Peters-Wagnon, USEPA (6EN-WM) by e-mail  
David Long, USEPA (6EN-WM) by e-mail  
Amy Andrews, USEPA (6EN-WM) by e-mail  
David Esparza, USEPA (6EN-WM) by e-mail  
Robert Houston, USEPA (6EN-WS) by e-mail  
Darlene Whitten-Hill, USEPA (6EN-WC) by e-mail  
Nancy Williams, USEPA (6EN-WC) by e-mail  
John Rhoderick, NMED District I by e-mail  
Neil McEachin, Fortis Construction by email



Form Approved  
OMB No. 2040-0003  
Approval Expires 7-31-85

### NPDES Compliance Inspection Report

#### Section A: National Data System Coding

Transaction Code	NPDES	yr/mo/day	Inspection Type	Inspector	Fac Type
1 N 2 5 3 N M R 1 0 0 0 C X	11 12 1 7 1 1 0 1	17 18 }	19 S	20 2	
Remarks					
C O N S T R U C T I O N > 5 A C R E S					
Inspection Work Days	Facility Evaluation Rating	BI	QA	Reserved	
67 69	70 3	71 N	72 N	73	74 75 80

#### Section B: Facility Data

Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number)	Entry Time /Date Nov 1, 2017 10:30 am	Permit Effective Date 2/16/2017
Project Antelope NM6 & Sand Sage Road Village of Los Lunas, Valencia County, NM	Exit Time/Date Nov 1, 2017 1:30 pm	Permit Expiration Date 2/16/2022
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)	Other Facility Data	
Neil McEachin/Superintendent/Neil.McEachin@fortisconstruction.com		
Name, Address of Responsible Official/Title/Phone and Fax Number Rick Troop/Project Manager/503-332-0870	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	SIC 1541 General Contractors-Industrial Buildings and Warehouses
Fortis Construction 1705 SW Taylor St, Ste 200 Portland, Oregon 97205		

#### Section C: Areas Evaluated During Inspection

(S = Satisfactory, M = Marginal, U = Unsatisfactory, N = Not Evaluated)

S	Permit	N	Flow Measurement	N	Operations & Maintenance	N	CSO/SSO
M	Records/Reports	N	Self-Monitoring Program	N	Sludge Handling/Disposal	N	Pollution Prevention
N	Facility Site Review	N	Compliance Schedules	N	Pretreatment	N	Multimedia
N	Effluent/Receiving Waters	N	Laboratory	S	Storm Water	N	Other:

#### Section D: Summary of Findings/Comments (Attach additional sheets if necessary)

1. Inspector arrived on site at 11/1/17 at 10:30 am and conducted entrance interview with Neil McEachin where she made introductions, presented credentials and explained the purpose of the inspection.
2. Exit interview was conducted at approximately 1:30 pm 11/1/17 with Neil McEachin. Preliminary findings of the inspection were discussed with the permittee representative.

Name(s) and Signature(s) of Inspector(s)	Agency/Office/Telephone/Fax	Date
Jennifer Foote /s/ Jennifer Foote	NMED/SWQB 505-827-0596	12/1/17
Signature of Management QA Reviewer	Agency/Office/Phone and Fax Numbers	Date
Sarah Holcomb, Program Manager /s/ Sarah Holcomb	NMED/SWQB 505-827-2798	12/1/17

## NPDES Construction General Permit Inspection Report – State of New Mexico

Inspection Date	11/1/17	Entry Time Exit Time	10:30am 1:30pm
Inspector Name/ Telephone	Jennifer Foote 505-827-0596		
Facility Name/ Physical Location	Project Antelope NM6 & Sand Sage Road Village of Los Lunas, NM		
Facility Type	<input type="checkbox"/> Commercial <input type="checkbox"/> Residential <input type="checkbox"/> Municipal <input checked="" type="checkbox"/> Industrial		
County Location	Valencia County		
Latitude/Longitude (Decimal Degrees)	34.8265      -106.7789		

Operator/Mailing Address	Date Company Operation Began	Authorized Official(s)	Phone	NPDES Tracking Number	NOI Cert Date	SWPPP Cert Date
Fortis Construction 1705 SW Taylor St, Ste 200 Portland, Oregon 97205	2003	Richard Troop	505-332-0870	NMR1000CX	5/9/17	11/1/17
Greater Kudu, LLC 4250 Messenger Loop Los Lunas, NM 87031	2017	unknown		NMU001949		

Was project covered under a previous permit?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, previous NPDES Tracking Numbers:	2012 CGP: Fortis Construction NMR12BM30
Actual Start Date	Approx early November 2016
Estimated End Date	9/30/2019
Disturbed Area	<input checked="" type="checkbox"/> >5 acre <input type="checkbox"/> 1>acre<5 <input type="checkbox"/> <1acre and part of larger common plan
Receiving Water, including information on segment number, impairments, tier	Rio Grande (Rio Puerco to Isleta Pueblo bnd), Segment 20.6.4.105 impaired for temperature, Tier 2

Permittee Representatives Present During Inspection:			
Name	Company/Organizatio	Title	Telephone
Neil McEachin	Fortis Construction	Superintendent	<a href="mailto:Neil.McEachin@fortisconstruction.com">Neil.McEachin@fortisconstruction.com</a>

### **Section I – Introduction:**

The project is the construction of a data center on 300 acres of land in Los Lunas NM. Adjacent to the site is the PNM Solar Facility (under construction) and the future Huning Ranch Business Park.

The entire 300 acre site has been brought to grade and building construction has started. Building construction will be phased over several years. The site has been graded to drain to several new retention ponds designed to retain water onsite. Though outside their site limits, the contractor assisted the adjacent land owner (Huning Ranch) with installing drainage ponds on the uphill side of the site to divert run-on flows from their site. The ponds were not stabilized, but some native vegetation is coming in. The pre-existing drainage channel on the south side of the site has been incorporated and it appears it will no longer discharge. There is one channel on the southwest that may discharge, some check dams had been added and final drainage design was not included in the available SWPPP documents.

### **Section II – Observations Summary:**

#### **Permit:**

The Project owner with operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications is listed in the SWPPP as Greater Kudu LLC. The owner has not applied for permit coverage. The Operator with day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions is Fortis Construction, who has obtained permit coverage under the 2012 NPDES Construction General Permit (CGP) and the 2017 CGP permit.

The NOI documented eligibility for the permit under Criterion A for Endangered Species Act purposes (no listed species and no critical habitat areas in your action area). The SWPPP states that USFWS was consulted, however documentation of this was not included in the Plan other than a species profile (and Section 2.2.4 states the project is in Cibola County while the project occurs in Valencia County) Documentation did not show that the ECOS process outlined in Appendix D of the permit was fully followed.

The SWPPP stated that they expected to encounter historical, cultural resource, and/or archaeological sites and included information on the Sandoval County Courthouse but did not indicate that the state had been consulted (see additional guidance provided by State of New Mexico in Appendix B of this inspection).

#### **SWPPP:**

The SWPPP available onsite had not been updated since it was initially written Sept 16, 2016. The operator was not aware of the parts of the SWPPP they were responsible to maintain, such as inserting the construction schedule, updating the tables, and signing the plan and inspections. The signatory authority was onsite and signed the plan and delegation of authority letter to sign inspections.

Locations of potential pollutants are not noted on the map. The site map and inspections referenced an Erosion and Sediment Control Plan, but only a Google aerial view of the site was included in the plan. The included map did not show controls that were in place.

There were no plans for stabilizing areas outside of the project limits that the contractor disturbed at request of the adjacent land owner such as utility corridor and the new drainage ponds. The plan did not include any specific information on final stabilization for the site.

There is no description of Corrective Actions requirements included in the SWPPP.

**Recordkeeping & Inspections:**

Inspections are conducted by 814 Solutions. Inspector qualifications for Lauren Jennings were not included in the SWPPP available onsite. The SWPPP states in section 3.10.1 that inspections will be conducted a minimum of every 7 days from June 15-September 30, and every 14 days and within 24 hours following a .25" precipitation event during the rest of the year. Inspections were not performed weekly during the SWPPP described "rainy season". The start date of the project was not documented in the plan but was thought to be in early October. The first inspection was on 11-30-16 which was not within 14 days as required.

There was no documentation of corrective actions being performed, though BMP repairs are occurring. There was no documentation of training of personnel including the stormwater team and personnel who are responsible for the design, installation, maintenance, and/or repair of stormwater controls.

**BMPs/Implementation:**

The public NOI posting was facing the inside of the site located inside the access control and was therefore not visible to the general public.

Fortis Construction maintains the BMPs. In general the site was neat and orderly. There was a 10,000 gal DOT fuel tank covered by a SPCC, as well as several smaller tanks onsite. Porta Potties were staked down, however the high winds and sandy soil in open areas require stronger tie-downs. Dumpsters were not covered and packing materials were observed to blow out of a dumpster. The contractor stated that materials had been ordered to cover the dumpsters.

The entire 300 acre site has been disturbed and appears bare. The site has been sprayed with Silt Stop(anionic polymer) as a temporary stabilization, however, there is no documentation of locations/dates applied, or how long it is expected to be effective before reapplication is required. In addition to the Silt Stop application, 6 trucks are applying water when needed for dust control. The facility seemed to have adequate street sweeping and no tracking was observed the day of the inspection.

Silt fences on the north side of the site had been damaged by recent grading operations and was not yet repaired. Check dams were not included in the original design but were installed along the road on the south side after they were found to be necessary.

**Section III – Inspection Findings:**

Findings below are organized by permit section.

**Part I: Permit Eligibility**

**Findings:**

- Part 1.1.1. Party with operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications did not obtain a permit
- Part 1.1.5 ESA Criteria Process in Appendix D was not fully followed and was not conducted for this specific location.

- Part 1.5 SWPPP Public posting was located inside a fence with access control and facing inwards (photo 2).

#### Part 2: Design, Installation and Maintenance Requirements

##### **Findings:**

- Part 2.3.3 Waste containers were not covered when not in use and debris was blowing away (photo 3).
- Part 2.3.3 Anchors were insufficient for portable toilet in high wind (photo 4).
- Part 2.2.5 No documentation of temporary stabilization of soil stockpiles was available
- Part 2.2.12 No documentation of sediment basin design was available.
- Part 2.2.13 No documentation on the use of dust control polymers was available.
- Part 2.2.14 No documentation of temporary stabilization of disturbed areas.

#### Part 4: Site Inspection Requirements

##### **Findings:**

- Part 4 Inspections were not conducted at the frequency specified in the SWPPP plan during the specified “rainy season”.
- Part 4.1 Qualifications for the most recent inspector were not included in the SWPPP.
- Part 4.7.2. Inspections were not signed by the Operator.

#### Part 5: Corrective Actions

##### **Findings:**

- Part 5 No documentation of corrective actions was available.

#### Part 6: Staff Training Requirements

##### **Findings:**

- Part 6 No documentation of staff training was available

#### Part 7: Stormwater Pollution Prevention Plan (SWPPP)

##### **Findings:**

- Part 7.1 The SWPPP was not updated after the 2017 permit was issued.
- Part 7.2.4 The site map in the SWPPP was inadequate and had not been updated.
- Part 7.2.6 The plan did not describe controls currently in place.
- Part 7.2.10 The SWPPP was not certified (was certified during inspection).

#### **Section IV - List of Appendices:**

Appendix A: Photo log

Appendix B: Application process for National Historic Preservation Act requirements for New Mexico

NMED/SWQB Official Photograph Log Photo # 1		
Photographer: Google Earth	Date: 4-22-17	Time: unknown
City/County: Los Lunas/Valencia		State: New Mexico
Location: Project Antelope		
Subject: Aerial view of project in April 2017		



NMED/SWQB Official Photograph Log Photo # 2		
Photographer: Jennifer Foote	Date: 11-1-17	Time: 12:50 pm
City/County: Los Lunas/Valencia		State: New Mexico
Location: Project Antelope		
Subject: SWPPP NOI Posting facing away from the public, inspector is standing inside the site looking out		





NMED/SWQB Official Photograph Log Photo # 3		
Photographer: Jennifer Foote	Date: 11-1-17	Time: 1:15 pm
City/County: Los Lunas/Valencia		State: New Mexico
Location: Project Antelope		
Subject: Packing materials blowing out of uncovered dumpster		



NMED/SWQB Official Photograph Log Photo # 4		
Photographer: Jennifer Foote	Date: 11-1-17	Time: 12:44 pm
City/County: Los Lunas/Valencia		State: New Mexico
Location: Project Antelope		
Subject: Porta potty with insufficient anchors for high wind		



NMED/SWQB Official Photograph Log Photo # 5		
Photographer: Jennifer Foote	Date: 11-1-17	Time: 1:14 pm
City/County: Los Lunas/Valencia		State: New Mexico
Location: Project Antelope		
Subject: Stormwater retention pond within site limits		



NMED/SWQB Official Photograph Log Photo # 6		
Photographer: Jennifer Foote	Date: 11-1-17	Time: 12:28 pm
City/County: Los Lunas/Valencia		State: New Mexico
Location: Project Antelope		
Subject: Stormwater retention pond and utility corridor outside site limits with no documented plans for stabilization		





NMED/SWQB Official Photograph Log Photo # 7		
Photographer: Jennifer Foote	Date: 11-1-17	Time: 12:37 pm
City/County: Los Lunas/Valencia		State: New Mexico
Location: Project Antelope		
Subject: silt fence on north side of site damaged by grading		



NMED/SWQB Official Photograph Log Photo # 8		
Photographer: Jennifer Foote	Date: 11-1-17	Time: 12:28 pm
City/County: Los Lunas/Valencia		State: New Mexico
Location: Project Antelope		
Subject: New check dams on south side of site		

